FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.
CRIMINAL APPLICATION NO. 752 OF 2005.
IN
CRIMINAL APPEAL NO. 108 OF 2005 .

Sudershan @ Babu Motilal Gupta. ..Applicant.

vs.

The State of Maharashtra. ..Respondent.

Office Notes,Office Memoranda of Coram, appearnaces,Courts's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Shri M.K.Kocharekar for the applicant.
Shri D.P.Adsule, A.P.P. for the State.

CORAM: V.M.KANADE,J.
DATED: 24-2-2005.

P.C.:

1. Heard learned Counsel appearing for the applicant and the learned A.P.P. for the State.

2. The applicant is convicted by the trial Court for having committed an offence punishable under section 307 r/w section 34 of the Indian Penal Code and is sentenced to suffer R.I. for 5 years. The prosecution case is that the present applicant along with 3 others assaulted the complainant and his brother with knives and both the witnessss sustained injuries as a result of the said assault. Learned Counsel for the applicant has taken me through the evidence of these 2

witnesses. He submitted that in the cross-examination, evidence given in examination-in-chief has been shaken and it is admitted that both the brothers were not assaulted by these accused. It is further submitted that there is discrepancy in the evidence of these eye witnesses regarding recovery of knife as also in the evidence of the investigating officer. Learned Counsel for the applicant has also taken me through the finding given by the trial Court in which, the trial Court while appreciating evidence of these two witnesses has observed that in the cross-examination their testimony has been shaken. He, therefore, submitted that though the trial Court has given this finding, yet, the trial Court has relied upon the evidence of these two eye-witnesses.

3. I am unable to accept the submissions made by the learned Counsel for the applicant. The 2 eye witnesses in their examination-in-chief have categorically given version about the assault by these two witnesses on their person. As a result of the said assault both of them were grievously injured and sustained injuries on the chest and other

parts of the body. The other 3 accused have been released on bail by order dated 28th January 2005. In the said order also, the learned Single Judge has observed that from the evidence of the injured witnesses, knife blows were admittedly given by the accused No.3- the present applicant. In these circumstances, this is not a fit case for grant of bail. Application for bail is, therefore, rejected. Hearing of the appeal is expedited.